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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,060	04/04/2005	Yves Demars	266383US6PCT	6279
22850	7590	07/02/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER A, PHI DIEU TRAN	
			ART UNIT 3633	PAPER NUMBER
			NOTIFICATION DATE 07/02/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/530,060	<b>Applicant(s)</b> DEMARS ET AL.	
	<b>Examiner</b> PHI D. A	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/1/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action per the Pre-appeal request of 3/24/08 is persuasive and, therefore, the finality of that action is withdrawn.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 13-19, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hornung et al (6974518) in view of Seelen et al (2768475).

Horning et al (figure 20D-28) shows an insulating glazing panel comprising at least two glass panes (164, and the one opposite, figure 20d) separated by a gas space, a spacer (162) configured to keep the panes apart, the spacer including at least one approximately flat strip fitted at least partly around a perimeter of the glazing panel, the strip is fitted substantially toward and interior of the glazing panel set back with respect to at least one end face of the glass panes, a second fastener (166) configured to cover, on an outside of the glazing panel, on an opposite side of the gas space, at least any respective edge of the strip that is contiguous with internal faces of the glass panes (see figures 20e), a second fastener (166) is placed along end face of the strip against internal faces of the glass panes and extends toward the interior of the glazing panel on the gas space side, end faces of the glass panes are level with respect to each other (figure 24) on at least one side of the glass panes that include the strip, end faces of the

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glass panes are offset levelwise with respect to each other (figure 20, figure 21), one of the panels being larger than the other (col 11-12, lines 65-10), the strip rests via a first end face against the internal face of the larger of the glass panes and, via a second end face opposite the first end face against the internal face of the other glass pane and level with the end face of the other glass pane or set back toward the interior of the glazing panel with respect to the end face of the other glass pane, end faces of the glass panes are offset levelwise with respect to each other and an internal face of the strip rests against the end face of the glass pane offset toward the interior of the glazing panel (figure 23) and one of the end faces of the strip rests against the internal face of the other glass pane (figure 23), the second fastener(166) covers the end face of the outer glass pane offset toward the interior of the glazing panel, and the edge of the strip is contiguous with the other glass pane or the end face of the strip placed against the internal face of the other glass pane, a material forming the strip includes means for sealing with respect to the interior of the panel, strip having a buckling strength per unit length of at least 400N/m (the strip is made of metal, col 11 lines 60-64, inherently having the claimed property as it is the same material as disclosed by applicant), the strip includes on one or both of its faces, functional elements formed in a material of the strip (col 11 lines 60-64).

Hormung does not show the strip fixed by adhesive bonding using at least a first fastener, the first fastener having at least a portion placed on the internal face of the strip, and is adhesively bonded against at least one internal face of the one glass pane, wherein at least the first fastener including means for sealing with respect to the interior of the glazing panel.

Seelen et al discloses the strip(14) fixed by adhesive bonding using at least a first fastener(19), the first fastener having at least a portion (figure 7) placed on the internal face of

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the strip, and is adhesively bonded against at least one internal face of the one glass pane, wherein at least the first fastener including means for sealing with respect to the interior of the glazing panel.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hormung's structure to show the strip fixed by adhesive bonding using at least a first fastener, the first fastener having at least a portion placed on the internal face of the strip, and is adhesively bonded against at least one internal face of the one glass pane, wherein at least the first fastener including means for sealing with respect to the interior of the glazing panel as taught by Seelen et al because it enables the secured fastening of the strip to the panes to precisely space and hold the panes prior to the application of other fastening means.

3. Claims 20-21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hornung et al (6974518) in view of Seelen et al (2768475) as applied to claim 13 above and further in view of Battersby (3957406).

Hornung et al as modified shows all the claimed limitations except for the fastener including an adhesive of hot melt type, the adhesive resisting tear stresses of at least 0.45MPa.

Battersby shows a hot melt adhesive (52) bonding the spacer to the panes.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Hornung et al's modified structure to show the fastener including an adhesive of hot melt type because hot melt adhesive are readily available and well known for using to bond glass panes together as taught by Battersby.

Horning et al as modified shows the adhesive being thermoplastic and having polyurethane. The adhesive in Hornung et al's modified structure also is able to withstand tear stresses of at least 0.45Mpa as claimed

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 13-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows adhesive bonding of the glass to the spacer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phi D A/  
Examiner, Art Unit 3633

Phi Dieu Tran A

3/26/08